


Message

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**From:** Barnhart, Megan [barnhart.megan@epa.gov]  
**Sent:** 7/22/2020 8:35:36 PM  
**To:** Hurl, Kathy [Hurl.Kathy@epa.gov]; Chemerys, Ruth [Chemerys.Ruth@epa.gov]  
**CC:** Kaiser, Russell [Kaiser.Russell@epa.gov]  
**Subject:** RE: Retained waters next steps.

<!--[if lte mso 15 || CheckWebRef]-->

Barnhart, Megan has shared a OneDrive for Business file with you. To view it, click the link below.

 Assumable Waters\_preamble & reg\_6\_25.docx

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<!--[endif]-->

Kathy and Ruth,

I completed my changes based on the comments and edits we received from Mindy and Carrie. In the areas where we need to discuss with the group to resolve her comments, I left responses to her comments for the group to discuss. I made my edits in track-changes so you can see the changes.

Please let me know if you have any questions.

Best,  
Megan

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**From:** Hurl, Kathy  
**Sent:** Wednesday, July 22, 2020 3:14 PM  
**To:** Barnhart, Megan <barnhart.megan@epa.gov>; Chemerys, Ruth <Chemerys.Ruth@epa.gov>  
**Subject:** RE: Retained waters next steps

I'm not sure, maybe we can ask the broader group tomorrow on the call. **Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

They've backed us into a corner with no way out :-0

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**From:** Barnhart, Megan <barnhart.megan@epa.gov>  
**Sent:** Wednesday, July 22, 2020 2:48 PM  
**To:** Hurl, Kathy <Hurl.Kathy@epa.gov>; Chemerys, Ruth <Chemerys.Ruth@epa.gov>  
**Subject:** RE: Retained waters next steps

Kathy,

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

**From:** Barnhart, Megan  
**Sent:** Wednesday, July 22, 2020 12:44 PM  
**To:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Chemerys, Ruth <[Chemerys.Ruth@epa.gov](mailto:Chemerys.Ruth@epa.gov)>  
**Subject:** RE: Retained waters next steps

## Ex. 5 Deliberative Process (DP)

**From:** Hurlid, Kathy  
**Sent:** Wednesday, July 22, 2020 12:27 PM  
**To:** Barnhart, Megan <[barnhart.megan@epa.gov](mailto:barnhart.megan@epa.gov)>  
**Subject:** RE: Retained waters next steps

Yes and yes, but respond to her bubble comment that we are putting something general in the purpose and scope.

**From:** Barnhart, Megan <[barnhart.megan@epa.gov](mailto:barnhart.megan@epa.gov)>  
**Sent:** Wednesday, July 22, 2020 12:25 PM  
**To:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>  
**Subject:** RE: Retained waters next steps

To clarify, that would not go in this section, but would be in the purpose and scope section of the rule? I should leave this section as is?

**From:** Hurlid, Kathy  
**Sent:** Wednesday, July 22, 2020 12:15 PM  
**To:** Barnhart, Megan <[barnhart.megan@epa.gov](mailto:barnhart.megan@epa.gov)>; Chemerys, Ruth <[Chemerys.Ruth@epa.gov](mailto:Chemerys.Ruth@epa.gov)>  
**Subject:** RE: Retained waters next steps

## Ex. 5 Deliberative Process (DP)

- Kathy

**From:** Barnhart, Megan <[barnhart.megan@epa.gov](mailto:barnhart.megan@epa.gov)>  
**Sent:** Wednesday, July 22, 2020 12:07 PM  
**To:** Chemerys, Ruth <[Chemerys.Ruth@epa.gov](mailto:Chemerys.Ruth@epa.gov)>  
**Cc:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>  
**Subject:** RE: Retained waters next steps

Having read Kathy's responses, maybe I misunderstood Mindy's comment on **Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

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**From:** Chemerys, Ruth  
**Sent:** Wednesday, July 22, 2020 11:46 AM  
**To:** Barnhart, Megan <[barnhart.megan@epa.gov](mailto:barnhart.megan@epa.gov)>  
**Cc:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>  
**Subject:** FW: Retained waters next steps

Hi Megan-

I'm checking in to see if you are now able to get back to the retained waters reg and preamble. Thanks again for your quick work on the ESA FRN comment summaries

Here are some thoughts from Kathy on your previous questions on the retained waters drafts. Let me know if it would be helpful to have a short call with Kathy to discuss, as she would be better able to explain than I can.

Ruth

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**From:** Barnhart, Megan <[barnhart.megan@epa.gov](mailto:barnhart.megan@epa.gov)>  
**Sent:** Wednesday, July 15, 2020 2:25 PM  
**To:** Chemerys, Ruth <[Chemerys.Ruth@epa.gov](mailto:Chemerys.Ruth@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Cc:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Wesson, Dolores <[Wesson.Dolores@epa.gov](mailto:Wesson.Dolores@epa.gov)>; Kaiser, Russell <[Kaiser.Russell@epa.gov](mailto:Kaiser.Russell@epa.gov)>; McDavit, Michael W. <[Mcdavit.Michael@epa.gov](mailto:Mcdavit.Michael@epa.gov)>  
**Subject:** RE: Adjacent Wetlands draft reg text.

Draft Deliberative

Good morning,

Once I get the ESA comment summaries, I will switch to revising the Retained Waters Reg text. Following up on the discussion yesterday, I have a few questions below in red on how to best address the comments we received from Mindy.

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

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**From:** Chemerys, Ruth  
**Sent:** Friday, July 10, 2020 4:28 PM  
**To:** Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>  
**Cc:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Wesson, Dolores <[Wesson.Dolores@epa.gov](mailto:Wesson.Dolores@epa.gov)>; Barnhart, Megan <[barnhart.megan@epa.gov](mailto:barnhart.megan@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Subject:** RE: Adjacent Wetlands draft reg text

Thanks Mindy. We'll review and let you know if we need to discuss.

Ruth

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**From:** Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>  
**Sent:** Friday, July 10, 2020 1:17 PM  
**To:** Chemerys, Ruth <[Chemerys.Ruth@epa.gov](mailto:Chemerys.Ruth@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Cc:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Wesson, Dolores <[Wesson.Dolores@epa.gov](mailto:Wesson.Dolores@epa.gov)>  
**Subject:** RE: Adjacent Wetlands draft reg text

Hi,

I just finished reviewing these sections, including some questions on the reg text of adjacent wetlands. Please let me know if you would like to discuss.

Thanks!

Mindy

Mindy Eisenberg  
Associate Director, Oceans, Wetlands & Communities Division  
Office of Wetlands, Oceans and Watersheds  
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1200 Pennsylvania Ave., NW, mailcode 4504T  
Washington, DC 20460  
(202) 566-1290  
[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

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**From:** Chemerys, Ruth <[Chemerys.Ruth@epa.gov](mailto:Chemerys.Ruth@epa.gov)>  
**Sent:** Tuesday, July 07, 2020 11:21 AM  
**To:** Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Cc:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Wesson, Dolores <[Wesson.Dolores@epa.gov](mailto:Wesson.Dolores@epa.gov)>  
**Subject:** Adjacent Wetlands draft reg text

Apologies, I'm adding for your review the draft regulatory text that on adjacent wetlands I neglected to include in the previous email.

Ruth

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**From:** Chemerys, Ruth  
**Sent:** Tuesday, July 07, 2020 10:52 AM  
**To:** Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Cc:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Wesson, Dolores <[Wesson.Dolores@epa.gov](mailto:Wesson.Dolores@epa.gov)>; Barnhart, Megan <[Barnhart.Megan@epa.gov](mailto:Barnhart.Megan@epa.gov)>  
**Subject:** Retained Waters and Adjacent Wetlands 404(g) rule drafts for Mindy's and Carrie's review

Mindy and Carrie-

Here are the drafts of the two items above. They've been discussed with the workgroup and comments addressed. Thanks to Megan and Dolores for their work on these.

If possible, please review and provide any comments by next Tuesday, July 14.

Thanks!

Ruth

*Ruth Chemerys*  
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